



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

November 2, 2015

BY ECF

The Honorable Loretta A. Preska
The Honorable Paul G. Gardephe
The Honorable Paul A. Engelmayer
United States District Judges
Southern District of New York
United States Courthouse
New York, New York 10007

**Re: *United States v. Tomas Clarke, 13 Cr. 670 (PGG)*
United States v. Ernesto Lujan, 13 Cr. 671 (PGG)
United States v. Alejandro Hurtado, 13 Cr. 673 (LAP)
*United States v. Maria Gonzalez, 13 Cr. 901 (PAE)***

Your Honors:

The Government respectfully submits this letter in accordance with the Court's procedure regarding sentencings involving multiple defendants in factually-related cases which cases are pending before different Judges.

The procedure provides in that, when the Government is filing a §5K1 motion on behalf of a defendant, the Government, twenty days before sentencing, is to provide the Judge with a "brief statement identifying any prior proceedings in which the defendant has testified before a different judge pursuant to a cooperation agreement." Such statement is to be provided to both the assigned sentencing Judge and the Judge before whom the defendant testified.

On various dates in December 2015, the above-referenced four defendants are scheduled to be sentenced in cases that arise out of essentially the same criminal conduct. In each instance, we anticipate filing a §5K1 motion, but none of the defendants has testified in a proceeding.

The Court's procedure further provides in pertinent that, when there is a defendant to be sentenced as a result of a guilty plea and there are active cases pending against other defendants "arising out of essentially the same criminal conduct" which are assigned to other Judges, the Government is to provide a "brief statement identifying any such pending cases." Such statement is to be provided to the assigned sentencing Judge and the Judges before whom the other cases are pending.

The criminal conduct from which these cases arise was a large-scale bribery scheme in which officers and employees of a Wall Street brokerage repeatedly paid kickbacks to a senior official at the Venezuelan state development bank so that she would direct lucrative bond business to the brokerage. This conduct constituted violations of the Foreign Corrupt Practices Act, the Travel Act, and the money laundering statutes.

The defendants whose conduct was related are the following: Benito Chinaea, a founder and the chief executive officer of the brokerage; Joseph DeMeneses, a managing director of the brokerage; Ernesto Lujan, a managing director of the brokerage in its Miami office; Tomas Clarke, an employee of the brokerage in its Miami office; Alejandro Hurtado, another brokerage employee in the Miami office; and Maria Gonzalez, the Venezuelan development bank official who received the kickbacks from the brokerage co-conspirators.¹

Ernesto Lujan pled guilty to Information 13 Cr. 671 (PGG) and is scheduled to be sentenced by Judge Gardephe on December 4, 2015.

Tomas Clarke pled guilty to Information 13 Cr. 670 (PGG) and is scheduled to be sentenced by Judge Gardephe on December 8, 2015.

Maria Gonzalez pled guilty to Information 13 Cr. 901 (PAE) and is scheduled to be sentenced by Judge Engelmayer on December 11, 2015.

Alejandro Hurtado pled guilty to Information 13 Cr. 673 (LAP) and is scheduled to be sentenced by Chief Judge Preska on December 15, 2015.

Should the Court desire any further information, we would of course be pleased to comply.

Respectfully submitted,

PREET BHARARA
United States Attorney

/s/ Harry A. Chernoff
by: _____
Harry A. Chernoff/Jason H. Cowley
Assistant United States Attorneys
(212) 637-2481/2479

cc: The Honorable Denise L. Cote (by ECF)
All Defense Counsel (by ECF and email)

¹ Benito Chinaea and Joseph DeMeneses each pled guilty to Indictment 14 Cr. 240 (DLC) and each was sentenced by the Honorable Denise L. Cote on March 31, 2015, to a term of imprisonment of 48 months.